even suggested in the principal case, that whether a corpse be regarded as property or not is immaterial to the point at issue. For when we consider that property in a body can only begin when the living becomes inanimate, it necessarily follows that property in one's own body can never arise. It must be conceded, however, that a dead body is something of which we can predicate a right of possession for the purposes of burial. Whether we call that right a *quasi* property right or not is a matter of terminology which does not concern us. The vital question remains, Can a testator by any possible testamentary act govern the vesting of that right?

Even in the absence of testamentary disposition there is some confusion in the law as to who has the right of burial. The principal case is perhaps in accordance with the general rule in this country, that it belongs to the next of kin. *Wynkoop* v. *Wynkoop*, 82 Am. Dec. 506 (Pa.). It is held in some jurisdictions, however, that the surviving widow or widower has the right. *Hackett* v. *Hackett*, 18 R. I. 155.

Equity has also interfered in determining the right as between the widow and the next of kin. *Snyder* v. *Snyder*, 60 How. Pr. 368. The courts limit their decisions in regard to the right of burial, however, expressly to those cases where there is no testamentary provision, and the inference is that a testator may, if he sees fit, govern the vesting of this right. There are *dicta*, also, which seem to recognize such a power. *O'Donnell* v. *Slade*, 123 Cal. 585; *Pierce* v. *Swan Pt. Cemetery*, 18 R. I. 227. In the former case it is distinctly stated that an individual has a sufficient proprietary interest in his own body after death to make a valid and binding testamentary disposition of it, and in the latter it is said that such a doctrine has been recognized. In neither case, however, is the point involved. On the other hand, in England, such a doctrine has been denied, where the court rested a decision on the ground that it was impossible by will or any other instrument to dispose of one's body. *Williams* v. *Williams*, 20 Ch. D. 659. It would seem, then, though there are *dicta* to the contrary, that courts have never recognized nor given effect to such a testamentary disposition, and though perhaps it may appear that under some circumstances effect should be given to the wishes of the deceased, it is difficult to suggest on what principle this can be done.

THE NECESSITY OF NOTICE TO A GUARANTOR. — A recent Massachusetts decision presents an interesting and able discussion of the effect on a guarantor's liability of a failure by the guarantee to give notice of the default of his principal. The guaranty in this case was of the payment of rent by a lessee of the plaintiff. The guarantor received no notice of the lessee's failure to pay till fourteen months after the default occurred, and in consequence of the delay was in a worse position. Nevertheless he was held on his guaranty. *Welch* v. *Walsh*, 59 N. E. Rep. 440 (Mass). The decision goes on the ground that the guarantor, having undertaken to have a certain thing done at a certain time, is bound to see it done, and the lessor is under no duty to notify him of default. This reasoning seems sound. *Rogers* v. *Burr*, 97 Ga. 10. It is commonly held that notice is not necessary to charge a guarantor if he has suffered no detriment. *Reynolds* v. *Douglas*, 12 Pet. 497. But it is often said that the guarantor would be discharged to the extent of any loss which he

would suffer from not having had notice. *Bank* v. *Drake*, 79 N. W. Rep. 121. The cases in which this statement is made, however, are almost universally cases of continuing guaranties. Nevertheless, in Massachusetts, it is clearly settled that lack of notice of default to a guarantor of a promissory note discharges him to the amount of the resulting injury. *Bank* v. *Haynes*, 25 Mass. 423. Such, also, seems to have been the early English law. *Philips* v. *Astling*, 2 Taunt. 206. See, also, *Tiffany* v. *Willis*, 30 Hun 266.

As to the cases of continuing guaranties, there may well be a different rule. For in such cases the time when the liability accrues is uncertain, and often peculiarly within the knowledge of the person receiving the guaranty. The subject-matter, also, is not one definite act. On the other hand, in the principal case, the guarantor could be in no doubt as to when, if at all, his liability accrued, nor for what he was liable. If the tenant does not pay at a settled time, the guarantor is bound, whereas, in the case of a continuing guaranty, it is impossible for him to tell when a default may occur. The argument from analogy, therefore, is weakened. Moreover, the few authorities found directly in point, aside from the promissory note cases cited, appear to be in accord with the principal decision. *Heyman* v. *Dooley*, 77 Md. 162; *Hungerford* v. *O'Brien*, 37 Minn. 306; Ames, Cas. Suretyship, 239. If notice is desired as a matter of business convenience, it may always be stipulated for in the contract, and in the absence of any such stipulation, the result reached in the principal case seems sound.

Jurisdiction in Divorce Proceedings. — The judgment in divorce proceedings operates directly upon the status of the parties, and thus it is everywhere recognized that jurisdiction in such proceedings belongs only to the state where the parties are domiciled. *Sewall* v. *Sewall*, 122 Mass. 156. In general, from the nature of the marriage relation, the domicil of a married woman follows that of her husband. *Barber* v. *Barber*, 21 How. 582. For purposes of divorce, however, an exception has been made, the wife being allowed to sue for separation at the domicil of the marriage, even though her offending husband had acquired a new domicil. *Harteau* v. *Harteau*, 14 Pick. 181. It would seem that this exception, however, required no further extension in order to fulfil its object of protecting the wife against the injustice of being compelled to follow a husband to every new domicil in order to obtain her freedom. Yet nearly everywhere in this country she is allowed to acquire a new and separate domicil for the purpose of instituting divorce proceedings, though for that purpose only. *Hunt* v. *Hunt*, 72 N. Y. 217. This doctrine has given rise to certain difficulties, not always satisfactorily treated by the courts, which are well illustrated by a recent New York decision. A wife left her husband who was domiciled in New York, and went to Oklahoma for the purpose of obtaining a divorce. On obtaining this she remarried and returned. Subsequently, on suit for divorce by the original husband in New York, it was held that this foreign divorce was invalid and no defence to this suit. *Winston* v. *Winston*, 165 N. Y. 553.

The decision follows the settled New York rule that a judgment of divorce against a non-appearing, non-resident defendant has no effect upon the latter's status, since it is granted without personal service. Yet